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| 69289 | 7590 | 03/08/2011 | EXAMINER | |
| COLOPLAST A/S | | | QUINN, RICHARD LEE | |
| Attention: Corporate Patents | | | ART UNIT | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@coloplast.com
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Office Action Summary

Application No.

10/584,059

Applicant(s)

EHMSEN ET AL.

Examiner

RICHALE L. QUINN

Art Unit

3765

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 12-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The amendment filed on 1/5/2011 has been fully considered. Claims 1-4 and 12-14 are currently pending. Claims 5-11 were cancelled. Claims 13-14 were added.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 13 –14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ashe et al. (US 2,438,310). The device of Ashe et al. discloses a support garment having an elastically extensible body part (11) having a front panel (11) and a back panel (11) opposite one another and a crotch part (38) interconnected between the front and back panels (Figures 1 and 2). The support garment including a seam (39) connecting the back panel (11) and the crotch part (38) to provide a pouch (Figures 1 and 2) extending from a back portion of the support garment wherein the pouch (38) provides a baggy crotch for the wearer. The radius of curvature of a curved edge of the crotch part (38) at the seam (39) is smaller than the radius of curvature of a curved edge of the back panel (11) of the body part at the seam (38: Column 3, lines 57-75 and column 4 lines 1 -12). The body part includes a waistband (15) and the curved edge

seam (39) of the crotch part is convex relative to the waistband at the rear of the garment (Figure 2). The seam (39) comprises a curved edge of the crotch part (38) attached to a curved edge of the back panel (11) at curved edge (39) and wherein the radius of curvature of the curved edge of the crotch part (38) is different from the radius of curvature of the curved edge of the back panel (11) to provide a baggy zone (41) that extends from the back portion of the garment. A crotch part (38) is interconnected (45,46) between the front panel and the back panel. A seam (39) connects the back panel and the crotch part, the seam formed from a curved edge of the crotch part (38) attached to a curved edge of the back panel (11).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashe et al. in view of Zagame (US 5,613,893). The device of Ashe et al. substantially discloses the claimed invention but is silent with regard to overall pressure. The device of Zagame discloses an undergarment for an abdominal portion of a larger person (Figure 1) that is formed of a material providing compression between 15-50 mmHg on the abdomen (Column 4, lines 22-25). It would have been obvious to a person having ordinary skill in

the art at the time the invention was made to modify the device of Ashet et al. by utilizing the compression material taught by Zagame in order to provide additional support to the abdomen (Column 1, lines 1-5).

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over AShet et al. in view of Beaupied (US 4,888,006). The device of Ashe et al. substantially discloses the claimed invention but is lacking a hole for a stoma. The device of Beaupied discloses an undergarment (10) having an aperture (72) for a stoma. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to utilize an aperture for a stoma as taught by Beaupied in order to provide an undergarment that is adaptable to the various needs of the user and support for ostomy while improving self image (Column 1, lines 53-63).

Response to Arguments

6. Applicant's arguments with respect to claims 1-4 and 12-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RICHALE L. QUINN whose telephone number is (571)272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L Quinn
Examiner
Art Unit 3765

/R. L. Q./
Examiner, Art Unit 3765

/KATHERINE MORAN/
Primary Examiner, Art Unit 3765